

104TH CONGRESS  
2D SESSION

# H. R. 3487

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IN THE SENATE OF THE UNITED STATES

SEPTEMBER 5, 1996

Received; read twice and referred to the Committee on Commerce, Science,  
and Transportation

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## AN ACT

To reauthorize the National Marine Sanctuaries Act, and  
for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “National Marine Sanc-  
5       tuaries Preservation Act”.

1 **SEC. 2. AMENDMENT OF NATIONAL MARINE SANCTUARIES**  
2 **ACT.**

3 Except as otherwise expressly provided, whenever in  
4 this Act an amendment or repeal is expressed in terms  
5 of an amendment to, or repeal of, a section or other provi-  
6 sion, the reference shall be considered to be made to a  
7 section or other provision of National Marine Sanctuaries  
8 Act (16 U.S.C. 1431–1445a).

9 **SEC. 3. REAUTHORIZATION OF THE NATIONAL MARINE**  
10 **SANCTUARIES ACT.**

11 Section 313 (16 U.S.C. 1444) is amended to read as  
12 follows:

13 **“SEC. 313. AUTHORIZATION OF APPROPRIATIONS.**

14 “There are authorized to be appropriated to the Sec-  
15 retary to carry out this title—

16 “(1) \$12,000,000 for fiscal year 1997;

17 “(2) \$15,000,000 for fiscal year 1998; and

18 “(3) \$18,000,000 for fiscal year 1999.”.

19 **SEC. 4. MANAGEMENT, RECOVERY, AND PRESERVATION**  
20 **PLAN FOR U.S.S. MONITOR.**

21 The Secretary of Commerce shall, within 12 months  
22 after the date of the enactment of this Act, prepare and  
23 submit to the Committee on Resources of the House of  
24 Representatives and the Committee on Commerce,  
25 Science, and Transportation of the Senate a long-range,  
26 comprehensive plan for the management, stabilization,

1 preservation, and recovery of artifacts and materials of the  
2 United States Ship Monitor. In preparing and implement-  
3 ing the plan, the Secretary shall to the extent feasible uti-  
4 lize the resources of other Federal and private entities  
5 with expertise and capabilities that are helpful.

6 **SEC. 5. PUBLICATION OF NOTICE OF CERTAIN ADVISORY**  
7 **COUNCIL MEETINGS.**

8 Section 315(e)(3) (16 U.S.C. 1445a(e)(3)) is amend-  
9 ed by inserting before the period at the end the following:  
10 “, except that in the case of a meeting of an Advisory  
11 Council established to provide assistance regarding any in-  
12 dividual national marine sanctuary the notice is not re-  
13 quired to be published in the Federal Register”.

14 **SEC. 6. ENHANCING SUPPORT FOR NATIONAL MARINE**  
15 **SANCTUARIES.**

16 (a) INCORPORATION OF EXISTING PROVISION.—Sec-  
17 tion 316 (16 U.S.C. 1445 note) is redesignated as section  
18 317, section 2204 of the National Marine Sanctuaries  
19 Program Amendments Act of 1992 (106 Stat. 5049) is  
20 moved so as to appear in the National Marine Sanctuaries  
21 Act following section 315, and that moved section is des-  
22 ignated as section 316 of the National Marine Sanctuaries  
23 Act.

1 (b) AMENDMENT OF INCORPORATED SECTION.—Sec-  
2 tion 316, as moved and designated by subsection (a) of  
3 this section, is amended as follows:

4 (1) Subsections (a), (g), and (h) are struck, and  
5 subsections (b), (c), (d), (e), and (f) are redesign-  
6 nated as subsections (a), (b), (c), (d), and (e), re-  
7 spectively.

8 (2) In subsection (a), as so redesignated, the  
9 matter preceding paragraph (1) is struck and the  
10 following is inserted:

11 “(a) AUTHORITY.—The Secretary may establish a  
12 program consisting of—”.

13 (3) In subsection (a)(5), as so redesignated—

14 (A) “establishment” is struck and “solicitation” is inserted; and

15 (B) “fees” is struck and “monetary or in-kind contributions” is inserted.

16 (4) In subsection (a)(6), as so redesignated—

17 (A) “fees” is struck and “monetary or in-kind contributions” is inserted;

18 (B) “paragraph (5)” is struck and “paragraphs (5) and (6)” is inserted;

19 (C) “assessed” is struck and “collected” is  
20 inserted; and  
21  
22  
23  
24

1 (D) “in an interest-bearing revolving fund”  
2 is struck.

3 (5) In subsection (a)(7), as so redesignated—

4 (A) “and use” is inserted after “expendi-  
5 ture”;

6 (B) “fees” is struck and “monetary and  
7 in-kind contributions” is inserted; and

8 (C) “and any interest in the fund estab-  
9 lished under paragraph (6)” is struck.

10 (6) In subsection (a), as so redesignated, para-  
11 graphs (5), (6), and (7) are redesignated in order as  
12 paragraphs (6), (7), and (8), and the following new  
13 paragraph is inserted after paragraph (4):

14 “(5) the creation, marketing, and selling of  
15 products to promote the national marine sanctuary  
16 program, and entering into exclusive or nonexclusive  
17 agreements authorizing entities to create, market or  
18 sell on the Secretary’s behalf;”.

19 (7) The following new sentence is added at the  
20 end of subsection (a), as so redesignated:

21 “Monetary and in-kind contributions raised through the  
22 sale, marketing, or use of symbols and products related  
23 to an individual national marine sanctuary shall be used  
24 to support that sanctuary.”.

25 (8) In subsection (e), as so redesignated—

1 (A) paragraph (2) is struck;

2 (B) in paragraph (1), “(1)” is struck, and  
 3 subparagraphs (A), (B), (C), and (D) are reded-  
 4 icated as paragraphs (1), (2), (3), and (4);  
 5 and

6 (C) in paragraph (3), as so redesignated,  
 7 “fee” is struck and “monetary or in-kind con-  
 8 tribution” is inserted.

9 (9) In each of subsections (b), (c), and (d), as  
 10 so redesignated, by striking “subsection (b)” and in-  
 11 serting “subsection (a)”.

12 **SEC. 7. HAWAIIAN ISLANDS NATIONAL MARINE SANC-**  
 13 **TUARY.**

14 (a) INCLUSION OF KAHOO LAWE ISLAND WATERS.—  
 15 Section 2305 of the Hawaiian Islands National Marine  
 16 Sanctuary Act (16 U.S.C. 1433 note) is amended—

17 (1) in subsection (a)—

18 (A) by striking “(A)” and inserting “(a)”;  
 19 and

20 (B) by striking “the area described in sub-  
 21 section (b) is” and inserting “the area de-  
 22 scribed in subsection (b)(1) and any area in-  
 23 cluded under subsection (b)(2) are”;

24 (2) by amending subsection (b)(2) to read as  
 25 follows:

1       “(2)(A) Within 6 months after the date of receipt of  
2 a request in writing from the Kahoolawe Island Reserve  
3 Commission for inclusion within the Sanctuary of the area  
4 of the marine environment within 3 nautical miles of the  
5 mean high tide line of Kahoolawe Island (in this section  
6 referred to as the ‘Kahoolawe Island waters’), the Sec-  
7 retary shall determine whether those waters may be suit-  
8 able for inclusion in the Sanctuary.

9       “(B) If the Secretary determines under subparagraph  
10 (A) that the Kahoolawe Island waters may be suitable for  
11 inclusion within the Sanctuary—

12               “(i) the Secretary shall provide notice of that  
13 determination to the Governor of Hawaii; and

14               “(ii) the Secretary shall prepare a supplemental  
15 environmental impact statement, management plan,  
16 and implementing regulations for that inclusion in  
17 accordance with this Act, the National Marine Sanc-  
18 tuaries Act, and the National Environmental Policy  
19 Act of 1969.”; and

20               (3) by amending subsection (c) to read as fol-  
21 lows:

22       “(c) EFFECT OF OBJECTION BY GOVERNOR.—(1)(A)  
23 If, within 45 days after the date of issuance of the com-  
24 prehensive management plan and implementing regula-  
25 tions under section 2306, the Governor of Hawaii certifies

1 to the Secretary that the management plan, the imple-  
2 menting regulations, or any term of the plan or regula-  
3 tions is unacceptable, the management plan, regulation,  
4 or term, respectively, shall not take effect in the area of  
5 the Sanctuary lying within the seaward boundary of the  
6 State of Hawaii.

7 “(B) If the Secretary considers that an action under  
8 subparagraph (A) will affect the Sanctuary in such a man-  
9 ner that the policy or purposes of this title cannot be ful-  
10 filled, the Secretary may terminate the designation under  
11 subsection (a). At least 30 days before that termination,  
12 the Secretary shall submit written notice of the termi-  
13 nation to the Committee on Resources of the House of  
14 Representatives and the Committee on Commerce,  
15 Science, and Transportation of the Senate.

16 “(2)(A) If, within 45 days after the Secretary issues  
17 the documents required under subsection (b)(2)(B)(ii), the  
18 Governor of Hawaii certifies to the Secretary that the in-  
19 clusion of the Kahoolawe Island waters in the Sanctuary  
20 or any term of that inclusion is unacceptable—

21 “(i) the inclusion or the term shall not take ef-  
22 fect; and

23 “(ii) subsection (b)(2) shall not apply during  
24 the 3-year period beginning on the date of that cer-  
25 tification.



1       “(B) If the Secretary considers that an action under  
2 subparagraph (A) regarding a term of the inclusion of the  
3 Kahoolawe Island waters will affect the inclusion or the  
4 administration of the Kahoolawe Island waters as part of  
5 the Sanctuary in such a manner that the policy or pur-  
6 poses of this title cannot be fulfilled, the Secretary may  
7 terminate that inclusion.”.

8       (b) LIMITATION ON USER FEES.—The Hawaiian Is-  
9 lands National Marine Sanctuary Act (16 U.S.C. 1433  
10 note) is further amended by redesignating section 2307  
11 as section 2308, and by inserting after section 2306 the  
12 following new section:

13   **“SEC. 2307. LIMITATION ON USER FEES.**

14       “(a) LIMITATION.—The Secretary shall not institute  
15 any user fee under this Act or the National Marine Sanc-  
16 tuaries Act for any activity within the Hawaiian Islands  
17 National Marine Sanctuary or any use of the Sanctuary  
18 or its resources.

19       “(b) USER FEE DEFINED.—In this section, the term  
20 ‘user fee’ does not include—

21               “(1) any fee authorized by section 310 of the  
22 National Marine Sanctuaries Act;

23               “(2) any gift or donation received under section  
24 311 of that Act; and

1           “(3) any monetary or in-kind contributions  
2           under section 316 of that Act.”.

3 **SEC. 8. FLOWER GARDEN BANKS BOUNDARY MODIFICA-**  
4 **TION.**

5           (a) MODIFICATION.—Notwithstanding section 304 of  
6 the National Marine Sanctuaries Act (16 U.S.C. 1434),  
7 the boundaries of the Flower Garden Banks National Ma-  
8 rine Sanctuary, as designated by Public Law 102–251, are  
9 amended to include the area described in subsection (d),  
10 popularly known as Stetson Bank. This area shall be part  
11 of the Flower Garden Banks National Marine Sanctuary  
12 and shall be managed and regulated as though it had been  
13 designated by the Secretary of Commerce under the Na-  
14 tional Marine Sanctuaries Act.

15           (b) DEPICTION OF SANCTUARY BOUNDARIES.—The  
16 Secretary of Commerce shall—

17               (1) prepare a chart depicting the boundaries of  
18 the Flower Garden Banks National Marine Sanc-  
19 tuary, as modified by this section; and

20               (2) submit copies of this chart to the Commit-  
21 tee on Resources of the House of Representatives  
22 and the Committee on Commerce, Science, and  
23 Transportation of the Senate.

24           (c) APPLICATION OF REGULATIONS.—Regulations is-  
25 sued by the Secretary of Commerce to implement the des-

1 ignition of the Flower Garden Banks National Marine  
2 Sanctuary shall apply to the area described in subsection  
3 (d), unless modified by the Secretary. This subsection  
4 shall take effect 45 days after the date of enactment of  
5 this Act.

6 (d) AREA DESCRIBED.—

7 (1) IN GENERAL.—Except as provided in para-  
8 graph (2), the area referred to in subsections (a),  
9 (b), and (c) is the area that is—

10 (A) generally depicted on the Department  
11 of the Interior, Minerals Management Service  
12 map titled “Western Gulf of Mexico, Lease Sale  
13 143, September 1993, Biologically Sensitive  
14 Areas, Map 3 of 3, Final”;

15 (B) labeled “Stetson” on the High Island  
16 Area South Addition diagram on that map; and

17 (C) within the 52 meter isobath.

18 (2) MINOR BOUNDARY ADJUSTMENTS.—The  
19 Secretary of Commerce may make minor adjust-  
20 ments to the boundaries of the area described in  
21 paragraph (1) as necessary to protect living coral re-  
22 sources or to simplify administration of the Flower  
23 Garden Banks National Marine Sanctuary and to  
24 establish precisely the geographic boundaries of  
25 Stetson Bank. The adjustments shall not signifi-

1 cantly enlarge or otherwise alter the size of the area  
2 described in paragraph (1), and shall not result in  
3 the restriction of oil and gas activities otherwise per-  
4 mitted outside of the “no activity” zone designated  
5 for Stetson Bank as that zone is depicted on the  
6 Minerals Management Service map entitled “Final  
7 Notice of Sale 161, Western Gulf of Mexico, Biologi-  
8 cal Stipulation Map Package”.

9 (e) PUBLICATION OF NOTICE.—

10 (1) IN GENERAL.—The Secretary of Commerce  
11 shall, as soon as practicable after the date of the en-  
12 actment of this Act, publish in the Federal Register  
13 a notice describing—

14 (A) the boundaries of the Flower Garden  
15 Banks National Marine Sanctuary, as modified  
16 by this section, and

17 (B) any modification of regulations appli-  
18 cable to that Sanctuary that are necessary to  
19 implement that modification of the boundaries  
20 of the Sanctuary.

21 (2) TREATMENT AS NOTICE REQUIRED UNDER  
22 NATIONAL MARINE SANCTUARIES ACT.—A notice  
23 published under paragraph (1) shall be considered to  
24 be the notice required to be published under section

1       304(b)(1) of the National Marine Sanctuaries Act  
2       (16 U.S.C. 1434(b)(1)).

3       (f) AUTHORIZATION OF APPROPRIATIONS.—Amounts  
4 may be appropriated to carry out this section under the  
5 authority provided in section 313 of the National Marine  
6 Sanctuaries Act, as amended by this Act.

7       **SEC. 9. MISCELLANEOUS TECHNICAL CORRECTIONS.**

8       (a) Section 301(b)(2) of the National Marine Sanc-  
9 tuaries Act (16 U.S.C. 1431(b)(2)) is amended by striking  
10 the period at the end and inserting a semicolon.

11       (b) Section 302 of the National Marine Sanctuaries  
12 Act (16 U.S.C. 1432) is amended—

13               (1) in paragraph (6) by striking “, and” at the  
14 end of subparagraph (C) and inserting a semicolon;  
15 and

16               (2) in paragraph (7) by striking “and” after  
17 the semicolon at the end.

18       (c) Section 307(e)(1)(A) of the National Marine  
19 Sanctuaries Act (16 U.S.C. 1437(e)(1)(A)) is amended by  
20 inserting “of 1980” before the period at the end.

21       (d) Section 2109 of the National Marine Sanctuaries  
22 Program Amendments Act of 1992 (106 Stat. 5045) is  
23 amended by striking the open quotation marks before  
24 “Section 311”.

1       (e) Section 2110(d) of the National Marine Sanc-  
2       tuaries Program Amendments Act of 1992 (106 Stat.  
3       5046) is deemed to have amended section 312(b)(1) of the  
4       Marine Protection, Research, and Sanctuaries Act of 1972  
5       (16 U.S.C. 1443(b)(1)) by inserting “or authorize” after  
6       “undertake”.

7       (f) The material added to the Marine Protection, Re-  
8       search, and Sanctuaries Act of 1972 by section 2112 of  
9       the National Marine Sanctuaries Program Amendments  
10      Act of 1992 (106 Stat. 5046)—

11             (1) is deemed to have been added by that sec-  
12      tion at the end of title III of the Marine Protection,  
13      Research, and Sanctuaries Act of 1972; and

14             (2) shall not be considered to have been added  
15      by that section to the end of the Marine Protection,  
16      Research, and Sanctuaries Act of 1972.

17      (g) Section 2202(e) of the National Marine Sanc-  
18      tuaries Program Amendments Act of 1992 (16 U.S.C.  
19      1433 note) is amended by striking “section 304(e)” and  
20      inserting “304(d)”.

21      (h) Section 304(b)(3) of the National Marine Sanc-  
22      tuaries Act (16 U.S.C. 1434(b)(3)) is amended—

23             (1) by striking subparagraphs (B) and (C);

1           (2) by moving the text of subparagraph (A) so  
2           as to begin at the end of the line on which appears  
3           the heading for paragraph (3);

4           (3) by moving clauses (i) and (ii) of subpara-  
5           graph (A) 2 ems to the left, so that the left margins  
6           of clauses (i) and (ii) are aligned with the left mar-  
7           gin of paragraph (3);

8           (4) by striking “(A) In” and inserting “In”;

9           (5) by striking “(i)” and inserting “(A)”; and

10          (6) by striking “(ii)” and inserting “(B)”.

11 **SEC. 10. NORTHWEST STRAITS.**

12          (a) NORTHWEST STRAITS MARINE RESOURCES PRO-  
13          TECTION ADVISORY COMMITTEE.—(1) There shall be es-  
14          tablished, within 120 days after the date of enactment of  
15          this subsection, the Northwest Straits Marine Resources  
16          Protection Advisory Committee, consisting of 11 members  
17          appointed by the Secretary of Commerce, at least 8 of  
18          whom are appointed in accordance with paragraph (2) and  
19          at least 1 of whom is appointed from each of the following  
20          counties in western Washington: Jefferson, San Juan, Is-  
21          land, Whatcom, Skagit, Snohomish, and Clallam. This Ad-  
22          visory Committee shall be exempt from the Federal Advi-  
23          sory Committee Act.

24          (2) The Secretary of Commerce shall appoint mem-  
25          bers of the Advisory Committee from a list of individuals

1 submitted by each county specified in paragraph (1), in  
2 accordance with the following requirements:

3 (A) A county may not submit the names of in-  
4 dividuals to the Secretary for appointment unless  
5 the county has determined that each individual, by  
6 reason of his or her occupational or other experi-  
7 ence, scientific expertise, or training, is knowledge-  
8 able regarding the conservation and management, or  
9 the commercial or recreational harvest or use, of the  
10 marine resources of the Northwest Straits.

11 (B) Each list shall include the names and perti-  
12 nent biographical data of not less than 3 individuals  
13 for each applicable vacancy and shall be accom-  
14 panied by a statement by the county explaining how  
15 each individual meets the requirements under para-  
16 graph (1).

17 (C) The Secretary shall review each list submit-  
18 ted by a county to ascertain if the individuals on the  
19 list are qualified for the vacancy on the basis of the  
20 requirements under subparagraph (A). If the Sec-  
21 retary determines that no individual on a county's  
22 list is qualified, the Secretary shall notify the county  
23 in writing of that determination, and provide the  
24 county an explanation of that determination. The  
25 county shall then submit a revised list or resubmit



1 the original list with an additional explanation of the  
2 qualifications of the individuals in question.

3 (b) ADVISORY COMMITTEE REPORT.—Within 1 year  
4 of the enactment of this Act, the Advisory Committee es-  
5 tablished under subsection (a) shall report to the Sec-  
6 retary of Commerce on the adequacy of existing marine  
7 resources protection under local, State, and Federal laws  
8 in the Northwest Straits. This report shall recommend  
9 whether a special resources management area is necessary  
10 to protect the marine resources of the Northwest Straits.  
11 If the Advisory Committee recommends that a special re-  
12 sources management area is necessary, then the report  
13 shall specify whether that area should constitute a non-  
14 Federal management area, a national marine sanctuary,  
15 or some other form. The Secretary shall make available  
16 to the Advisory Committee any staff, information, admin-  
17 istrative services, or other assistance reasonably required  
18 to carry out its functions.

19 (c) SUBMISSION OF NORTHWEST STRAITS DRAFT  
20 ENVIRONMENTAL IMPACT STATEMENT.—The Secretary  
21 of Commerce shall not issue a draft Environmental Impact  
22 Statement under the National Environmental Policy Act  
23 of 1969 on a national marine sanctuary in the Northwest  
24 Straits until receipt of the report required under sub-  
25 section (b). If the Secretary issues a draft Environmental

1 Impact Statement, it shall include the Advisory Commit-  
2 tee's recommendation as an alternative.

3 (d) SUBMISSION OF DOCUMENTS.—In the case of a  
4 national marine sanctuary in the Northwest Straits, on  
5 the same day the notice required by section 304(a)(1)(A)  
6 of the National Marine Sanctuaries Act is issued, the Sec-  
7 retary of Commerce shall submit the documents required  
8 by section 304(a)(1)(C) of the National Marine Sanc-  
9 tuaries Act to the Advisory Committee established under  
10 subsection (a) and shall publish notice of that submission  
11 in the Federal Register. The Advisory Committee shall  
12 then within 60 days review those documents and make rec-  
13 ommendations to the Secretary regarding designation.  
14 Upon receipt of the recommendations of the Advisory  
15 Committee, the Secretary shall submit the documents re-  
16 quired by section 304(a)(1)(A) of the National Marine  
17 Sanctuaries Act along with recommendations of the Advi-  
18 sory Committee to the Committee on Resources of the  
19 House of Representatives and the Committee on Com-  
20 merce, Science, and Transportation of the Senate.

21 (e) CONGRESSIONAL AUTHORIZATION OF DESIGNA-  
22 TION REQUIRED.—No designation of an area in the  
23 Northwest Straits as a national marine sanctuary under  
24 the National Marine Sanctuaries Act shall take effect un-  
25 less that designation is specifically authorized by a law en-

1 acted after the date of publication of the notice of submis-  
 2 sion required under subsection (d).

3 (f) DEFINITIONS.—

4 (1) NORTHWEST STRAITS.—In this section the  
 5 term “Northwest Straits” means the area generally  
 6 described as the Washington State Nearshore area  
 7 in the notice published by the Secretary of Com-  
 8 merce in the Federal Register on August 4, 1983.

9 (2) COUNTY.—In subsection (a)(2), the term  
 10 “county” means each local elected legislative body  
 11 that represents a county specified in subsection  
 12 (a)(1).

13 **SEC. 11. DESIGNATION OF GERRY E. STUDDS STELLWAGEN**  
 14 **BANK NATIONAL MARINE SANCTUARY.**

15 The Stellwagen Bank National Marine Sanctuary  
 16 shall be known and designated as the “Gerry E. Studds  
 17 Stellwagen Bank National Marine Sanctuary”. Any ref-  
 18 erence in a law, map, regulation, document, paper, or  
 19 other record of the United States to that national marine  
 20 sanctuary shall be deemed to be a reference to the “Gerry  
 21 E. Studds Stellwagen Bank National Marine Sanctuary”.

Passed the House of Representatives September 4,  
 1996.

Attest:

ROBIN H. CARLE,  
*Clerk.*